REMARKS

Upon entry of this Amendment, claims 1-7, 9-11, and 13-47 remain in the application.

The Office Action of May 25, 2004 has been received and carefully considered. In response thereto, this Amendment is submitted. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Reconsideration is, therefore, respectfully requested.

Claims 1-7, 9-11, 13-20, 22-29, and 33-47 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Primeaux, II et al. in view of Langeman. The Examiner indicates that the Primeaux reference teaches an elastomer coating material for use on a substrate. The Examiner indicates the coating material comprises an amine-terminated polyetherpolyol (column 4, lines 43-5) having a molecular weight greater than about 1,500 and an amine equivalent weight greater than about 750 (column 4, lines 43-52) and an isocyanate compound (column 3, line 16). When mixed, these materials react to form a polyurea that cures substantially instantaneously (column 10, lines 13-28). The materials are mixed such that predetermined tensile strength, hardness, and flexibility are achieved (column 2, lines 49-67). The Examiner indicates that, since this reference teaches applying the material to a large substrate such as a rail car and that no means are taken to heat or cool the rail car, the reference reads on applying the material to a substrate at ambient temperatures and pressures. The Examiner also indicates that the flexibility of the coating reads on attenuating vibration (column 2, lines 35-40). Additionally, the Examiner indicates that, since the coating taught by Primeaux is the same as the coating claimed by the Applicant, it would be inherent that the coating of Primeaux would act to attenuate vibration, noise, and harshness. The Examiner indicates

that the Primeaux reference fails to explicitly teach that the coating is applied to at least one body component of an automobile passenger vehicle.

The Examiner has cited the Langeman reference as teaching that spray-on truck bed liners require abrasion and impact resistance for loading and unloading cargo (column 2, lines 8-46). The Examiner indicates that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the composition taught by Primeaux as the spray-on bed liner taught by Langeman. By doing so, the Examiner indicates that one would have a reasonable expectation of success as Primeaux teaches that the coating provides impact resistance for loading and unloading of cargo and Langeman teaches that spray-on bed liners require such characteristics. The coating of Primeaux is considered to read upon the Applicants' claimed coating as shown in the previous Office Action. The truck bed of Langeman reads on the substrate of the Applicants' claims.

The Applicants' invention as set forth in claim 1 is directed to a method for damping vibration of the substrate that comprises the steps of providing a substrate of at least one of a body in white, carbon graphite composite, fiberglass, polycarbonates, ABS or structural polymeric materials. Two components are mixed to form a liquid material in which the first component consists of essentially at least amine-terminated polymer as defined in claim 1 and the second component consists essentially of at least one isocyanate compound. The first and second components react upon mixing to form a polyurea. The resulting liquid material is applied to the substrate at an ambient temperature such that application occurs in a manner that produces an application pattern. The liquid material cures substantially instantaneously upon application and adheres to the substrate in a manner that attenuates noise, vibration and harshness transmitted through the substrate. The method further includes the step of applying at least one finish element onto the cured liquid material. The finish element includes at least one of trim

work and paint. Support for claim 1 as currently amended is found in the specification at paragraphs 14 and 17. At paragraph 14, it is stated that the substrate can include bodies in white either before or after application of primer coats. The term body in white has been used to be intended to mean a vehicle body assembled with "all paintable components thereon, but without trim work or any other components which are not painted". Thus, it can be inferred that the method further includes the step of applying at least one finish element that includes at least one of trim work and paint. Further support is found in paragraph 17 where it states that the material may be applied either before or after a primer is applied.

The Primeaux reference lacks any teaching or suggestion of application of a material for attenuating NVH in which the substrate to which the material is applied is subjected to further post application processes, particularly those requiring further vehicle assembly. As indicated by the Examiner, the Primeaux reference is directed to application of the material to previously assembled items such as rail cars. The Primeaux reference discloses that the polyurea elastomers set forth therein have improved adhesion, improved abrasion resistance, and improved impact resistance. However, the reference lacks any teaching which would suggest that the materials attenuate noise, vibration and harshness. Additionally, the references lack any teaching which would suggest that the materials can be applied in a process that would include the application of finish elements onto the cured liquid material. Indeed, the teaching of improved abrasion resistance mitigates against the use or application of materials in overlying relationship with the two- component liquid as such materials would be subjected to the abrasion that the polyurea is meant to protect against.

Similarly, the Langeman reference is directed to a trimming tape and method of manufacture that can be employed in a process related to the application of spray-on linings. As the Langeman reference indicates, it is considered common to apply a curable

coating such as a polyurethane to an exposed surface such as a way, floor, or automobile body to offer protection against corrosion, moisture, or abrasion. (Langeman, column 1, lines 13-19). One common use of spray-on coatings is for boxes of pickup trucks. The Langeman reference indicates that the application is one in which the appearance of both the coated and uncoated surfaces is particularly important (Langeman, column 2, lines 8-17). The Langeman reference also teaches that spray-on linings provide a coating that prevents the entry of dirt or moisture between the lining and the truck bodies, offers a slip resistant and protective surface for the cargo to ride on and protects against abrasion by various materials that may be carried in the truck, van, or box (Langeman, column 2, lines 15-17 and 30-35). The Langeman reference fails to teach or suggest the application of finish elements onto the cured liquid material. Indeed, it is respectfully submitted that the masking method disclosed in Langeman would direct the skilled artisan from such finish element application. The application of the finish elements prior to the removal of the masking tape disclosed in Langeman would ultimately provide an exposed lateral surface that could be undesirable aesthetically. Application of the finish element material after removal of the masking tape could result in undesired paint overspray and the like.

In contrast, the Applicants' invention is directed to a method in which noise vibration and harshness can be attenuated through the application of the claimed liquid material as an integral part of the vehicle assembly process. It can be appreciated that the attenuation of NVH is a desirable outcome as such attenuation removes or mitigates against undesirable body boom and other characteristics. The integration of this damping process into the assembly process provides a method whereby the damping element can be integrally attached to the substrate during the assembly process. In contrast, the prior methods required the use of separate pads or the like. Application of materials such as the polyurethane disclosed in Langeman required cure times, set-up times, and the like that mitigate against the use of such materials in an assembly process and require the use

of the materials disclosed therein as abrasion resistant materials applied at the end of any assembly process or in post assembly steps and methods. While the Primeaux reference is directed to a similar liquid material, the reference fails to teach or appreciate that the material could be applied during assembly process rather than as a post-assembly step. For these reasons, it is submitted that the Applicants' invention as set forth in claim 1 is not taught, anticipated, or rendered obvious by the cited references.

The Applicants' invention as set forth in claims 2-7 and 10 depends from independent claim 1 to contain the limitations found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claims 2-7 and 10 is not taught, anticipated, or rendered obvious by the cited references by the reasons discussed previously in conjunction with claim 1.

Claim 9 currently stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux in view of Langeman. The Applicants' invention as set forth in claim 9 is directed to a method in which the substrate is a body in white. It is respectfully submitted that the Primeaux and Langeman references fail to teach or suggest the application of this material to a body in white. In contrast, the Primeaux reference teaches that this material is advantageously applied to previously assembled items such as rail cars. Similarly, the Langeman reference teaches that the material is advantageously applied to previously assembled products such as truck beds. It is respectfully submitted that the references fail to teach, suggest or even appreciate that the application of the material integrally during the assembly process to a body in white can advantageously attenuate vibration such as noise vibration and harshness. For these reasons, it is submitted that the Applicants' invention as set forth in claim 9 is not taught, anticipated, or rendered obvious by the cited references.

Claim 11 currently stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux in view of Langeman. The Applicants' invention as set forth in claim 10 is directed to a method in which the application step is preformed by a high pressure, impingement mix spray system. It is respectfully submitted that the Primeaux and Langeman references fail to teach or suggest the use of such system. Thus, it is submitted that the Applicants' invention as set forth in claim 11 is not taught, anticipated, or rendered obvious by the cited references.

Claim 13 currently stands rejected under 35 U.S.C. § 103(a) as being rendered obvious over Primeaux in view of Langeman. The Applicants' invention as set forth in claim 13 is directed to a method for damping vibration of a substrate that includes the steps providing a substrate. The substrate is at least one of a body in white, carbon graphite composite, fiberglass, polycarbonates, ABS, or structural polymeric materials. The two components defined in claim 13 are mixed to form a liquid material that is applied to the substrate at ambient temperature. Application occurs in a manner that produces an application pattern. The cured material adheres to the substrate in a manner that attenuates vibration, noise, and harshness transmitted through the substrate. The method also includes the step of applying at least one finish element onto the cured liquid material. The finish element includes at least one of trim work and paint. As indicated previously, support for claim 13 as amended is derived from paragraphs 14 and 17. As indicated previously, it is submitted that the Primeaux and Langeman references fail to teach or suggest a method in which trim work and/or paint is subsequently applied onto the cured liquid material. Thus, it is submitted that the Applicants' invention as set forth in claim 13 is not taught, anticipated, or rendered obvious by the cited references.

Claims 15-19 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Primeaux et al. in view of Langeman. Claims 15-19 depend either directly or indirectly from claim 13 to contain all of the limitations therein. By this dependency, it is submitted that the Applicants' invention as set forth in claims 15-19 is not taught, anticipated, or rendered obvious by the cited references.

Claim 20 also stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux in view of Langeman. The Applicants' invention as set forth in claim 20 is a method for damping vibration of the substrate that comprises the steps of providing a substrate. The substrate is at least one of a body in white, carbon graphite composites, fiberglass, polycarbonates, ABS, or structural polymeric materials. The method also includes the step of mixing at least two components to form a liquid material. The first and second components react upon mixing. The liquid material is applied to the substrate at an ambient temperature and cures substantially instantaneously. The application occurs in a manner that produces an application pattern in which the cured material adheres to the substrate in a manner that attenuates vibration, noise, and harshness transmitted through the substrate. The method also includes the step of applying at least one finish element as indicated previously. It is respectfully submitted that the Primeaux and Langemen references fail to teach or suggest the application of at least one finish element to the cured liquid material. For this reason, it is submitted that the Applicants' invention as set forth in claim 20 is not taught, anticipated, or rendered obvious by the cited references.

Claim 22 also stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by the cited references. Claim 22 depends from independent claim 20 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicants' invention is not taught, anticipated, or rendered obvious by the cited references.

Claim 23 also stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux in view of Langeman. Claim 23 depends from claim 22 to specify that the first component of the composition further include an adhesion promoter comprising an organosilane component. It is respectfully submitted that the Primeaux reference fails to teach or suggest such compounds. Additionally, claim 23 depends indirectly from claim 20 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claim 23 is not taught, anticipated, or rendered obvious by the cited references for the reasons discussed previously in conjunction with claim 20.

Claim 24 currently stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux in view of Langeman. The Applicants' invention as set forth in claim 24 has been amended to further indicate that the process includes the application of at least one finish element onto the cured liquid material. The finish element includes one of trim work and paint. It is submitted that the Primeaux and Langeman references not taught, anticipated, or rendered obvious by the cited references fail to teach or suggest a process whereby a material such as that set forth in claim 24 can be applied to reduce noise, vibration, and harshness in a process whereby subsequent finish elements are then applied onto the cured liquid material. For this reason, it is submitted that the Applicants' invention as set forth in claim 24 is not taught, anticipated, or rendered obvious by the cited references.

Claims 25-29 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Primeaux in view of Langeman. Claims 25-29 depend either directly or indirectly from claim 24 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claims 25-29 is not taught,

anticipated, or rendered obvious by the cited references for the reasons discussed previously in conjunction with claim 24.

Claim 33 also stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux in view of Langeman. Claim 33 is directed to a method for attenuating vibration transmitted through a passenger vehicle into the interior passenger cabin thereof. The Applicants' invention as set forth in claim 33 includes the steps of providing at least one body component of an automotive passenger vehicle, providing a substantially organic material consisting of a liquid mixture as defined in that claim and applying the liquid mixture to at least one body component in a manner sufficient so that, upon curing the substantially organic material attenuates vibration of at least one body component. The method also includes the step of applying at least one finish element onto the cured liquid material. The finish element includes at least one of trim work and paint. It is submitted that the cited references fail to teach or suggest the application of a finish element onto the cured liquid material.

Claims 34-47 also stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux in view of Langeman. It is submitted that the Applicants' invention as set forth in claims 34-47 depends either directly or indirectly from claim 33 to contain all of the limitation found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claims 34-47 is not taught, anticipated, or rendered obvious by the cited references for the reasons discussed previously in conjunction with claim 33.

Claims 21 and 30-32 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Primeaux in view of Langeman in further view of Barron. The Examiner contends that the Primeaux reference, in view of Langeman teaches the limitations as previously set forth in claims 20 and 25, but fails to explicitly teach that the

filler can be a fiber material. The Barron reference is cited as teaching that polyurea compositions can be reinforced with glass fibers. The Examiner contends that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to use glass fibers as a filler in the processes taught by Primeaux in view of Langeman.

Claims 21 and 30-32 as amended lack any teaching or suggestion to chopped fiberglass. As such, it is submitted that the Applicants' invention as set forth in claims 21 and 30-32 is not taught, anticipated, or rendered obvious by the cited references.

Claims 1-7, 9-11, 13-20, and 22-29 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaeckle in view of Primeaux. The Examiner contends that the Jaeckle reference teaches rail cars for loading and unloading cargo with components that are made of fiberglass (column 2, lines 22-30). The reference is silent in teaching a protective coating. The Primeaux reference is cited as teaching an elastomer coating for use in providing an impact and abrasion resistant coating for rail cars that undergo unloading and loading of cargo (column 15, lines 3-15). The Examiner indicates that the coating can withstand the flexing of the rail that the rail car incurs during travel. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to use the protective coating of Preimeaux in the rail car taught in Jaeckle.

The Jaeckle reference is directed to a rail car closure composed of a sheet of fiberglass and various other structural elements. The door or closure is a top cover adapted to be positioned above the existing gate structure of the rail car. The top cover or door 30 is vertically positioned between the roof and the upper edge of the gates 20. The reference is silent as to the composition of the remaining components of the rail car. Given the position of the top door for closing the upper portion of the rail car end, it would be improbable that a coating such as Primeaux would be required in order to

improve abrasion resistance, improve impact resistance, or the like on the interior of the top cover as the materials to be transported would be located on the lower floor of the rail car and would be unlikely to be making impact with the top cover as disclosed in Jaeckle. Thus, the Jaeckle reference lacks any teaching or motivation which would induce the skilled artisan to provide a protective coating on the anti-theft top cover disclosed therein. As indicated previously, the Primeaux reference is directed to a material to be applied to the interior lining of a rail car to provide abrasion resistance and improved impact resistance. The reference lacks any teaching or suggestion that any such material could be successfully utilized to dampen noise, vibration, and harshness. Furthermore, it is submitted that the combined references fail to teach or suggest a method whereby a material can be applied to a substrate in a method whereby a trim piece or paint is subsequently applied to the cured liquid material.

The Applicants' invention as set forth in the various independent claims such as claim 1, claim 13, claim, 20, and claim 24 is directed to a method for damping vibration of the substrate that comprises the steps of providing a substrate that comprises the steps of providing a substrate. The substrate provided is at least one of a body in white, carbon graphite composites, fiberglass, polycarbonates, ABS, or structural polymeric materials. The liquid material defined respectively in each of these claims is prepared and applied to the substrate at an ambient temperature. Application occurs in a manner that produces an application pattern. The liquid material cures substantially instantaneously upon application and adheres to the substrate in a manner which attenuates vibration, noise, and harshness transmitted through the substrate. The method as set forth in these respective claims also includes the step of applying at least one finish element onto the cured liquid material. The finish element includes at least one of trim work and paint. It is respectfully submitted that the cited references fail to teach or suggest a method for damping vibration of the substrate in which the substrate is one of the materials suggested

therein and in which the method includes a step that permits the application of at least one finish element onto the cured liquid material. For these reasons, it is submitted that the Applicants' invention as set forth respectively in claims 1, 13, 20, and 24 is not taught, anticipated, or rendered obvious by the cited references.

Claims 2-7, 9-11, 13-19, and 22, 23, and 25-29 depend from one of the independent claims previously mentioned. By this dependency, it is submitted that the Applicants' invention as set forth in these claims is not taught, anticipated or rendered obvious by these cited references.

Claims 20 and 30-32 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaeckle in view of Primeaux and in further view of Barron. The Examiner contends that the Jaeckle reference in view of Primeaux teaches the limitations as previously set forth in claims 20 and 25, but fails to explicitly teach that the filler includes fibers. Barron is cited as teaching that polyurea compositions are reinforced with glass fibers. Claims 21 and 30 have been amended to expressly exclude glass fibers. By this amendment, it is submitted that the Applicants' invention as set forth in claims 20 and 30-32 is nto taught, anticipated, or rendered obvious by the cited references.

Claims 1-7, 9-11, and 13-47 currently stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of US 6,291,019 B1. The Examiner indicates that, although conflicting claims are not identical, they are not patentably distinct from one another because all of the limitations presented in the present claims are met by the claims of the patent. The Applicants' acknowledge the rejection under the judicially created doctrine of obviousness-type double patenting. However, the claims set forth in this application have been amended by this action. Thus, the Applicants' defer submission of a terminal disclaimer until such

time as these claims have been reviewed and an agreement as to allowable subject matter has been reached.

In summary claims 1, 13, 20, 21, 24, 30, and 33 have been amended by this action. Arguments have been presented as to why the Applicants' invention as set forth in claims 1-7, 9-11, and 13-47 are not taught, anticipated, or rendered obvious by the cited references. In view of the present amendment, it is respectfully submitted that the Applicants' invention as set forth in these claims is in a condition suitable for allowance. A Notice Of Allowance is, therefore, respectfully requested.

Respectfully submitted,

Denise M. Glassmeyer
Reg. No. 31,831
YOUNG & BASILE, P.C.
3001 West Big Beaver Road
Suite 624
Troy, Michigan 48084-3107
(248) 649-3333

DATED: October 25, 2004